IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 2639 of 2007(L)

PETITIONER:

1. PREEMA V.K., D/O. MOHANAN V.K.,
"MAYOORAM", CHOROD P.O., VATAKARA,KOZHIKODE DIST.

2. NITESH PARAMESWARAN,
SARASWATHI NIVAS, NITTOOR (P.O), KAKKATTIL (VIA),
KOZHIKODE.

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

RESPONDENTS:

1. CALICUT UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,CALICUT UNIVERSITY PO

2. THE CONTROLLER OF EXAMINATIONS,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY (P.O).

3. DR.T.P.RAMACHANDRAN,
HEAD OF THE DEPARTMENT OF MATHEMATICS,
UNIVERSITY OF CALICUT, CALICUT UNIVERSITY (P.O)

4. THE PRINCIPAL,
SREE NARAYANA COLLEGE, VATAKARA.

R1 & R2 BY ADV.SRI.P.C.SASIDHARAN, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.2639 OF 2007

Dated this the 20th day of March, 2007

JUDGMENT

This writ petition is filed challenging the communication of the decision of the Syndicate that the petitioners are guilty of mal-practice. I may, at once, notice that the impugned inquiry was following the interim order passed by this Court in an earlier writ petition prescribing a six weeks limit to complete the inquiry. That led to contempt of court proceedings and also an application of the University to enlarge the time. According to the University, within the framework of six weeks, they could not undertake an inquiry in the elaborate manner as is contemplated by Chapter 18, the Rules to be followed in dealing with mal-practice cases at University examinations (approved by the Syndicate as per item No.84, 48 dated 31.3.1984) and therefore, the Vice Chancellor had invoked the authority under Clause 11 thereof, whereby the Vice Chancellor is entitled to waive the elaborate procedure when he is satisfied that a special

procedure is required. Whatever that be, it is too early for the petitioners to rush to this Court. I say so because, after the impugned communication dated 1.1.2007 was issued, the matter gained attention of this Court in C.C.C.1535/06, in which, Ext.R1 (c) counter affidavit dated 4.1.2007 was placed and thereafter, the said proceedings were closed. It was only thereafter that the earlier writ petition W.P(C).25299/06 was closed, that too after the writ petition in hand was filed.

2. Now, in the realm of education and discipline in educational institutions and in connection with examinations, particularly University examinations, the petitioners may not be here to challenge of the first time in the writ court regarding the correctness of the procedure, particularly when the writ petition does not contain any pleadings challenging any other findings against them. It is pointed out by the learned counsel for the petitioners that the findings were not put to the petitioners. That is obvious. The petitioner did not even wait to look into the findings against them. They merely rush to this Court and filed this writ petition.

3. In the realm of University discipline and in matters relating to discipline relatable to academy, particularly when the University is headed by the Vice Chancellor, petitioners, if aggrieved, ought to have challenged the findings against them before the appropriate authority in the University. There is also a Board for adjudication of students' grievances in the Universities. That apart, the competent authority in the Syndicate could also have a second look, provided a request is made by the students. It is also not as if the Vice Chancellor is powerless.

Under such circumstances, having particular regard to the findings against the petitioners as reflected in Ext.R1(d), it was for the petitioners to move the authorities in the University rather than rush to this Court. Without prejudice to the petitioners doing that and without prejudice to contentions, this writ petition is closed.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.